



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/863,644	05/23/2001	Patricia McLaughlin	MCLAU-001	1039

7590

03/26/2004

MITCHELL A. STEIN  
STEIN LAW  
24 WOODBINE AVENUE  
SUITE 4  
NORTHPORT, NY 11768

EXAMINER
----------

MENDIRATTA, VISHU K

ART UNIT	PAPER NUMBER
----------	--------------

3712

DATE MAILED: 03/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/863,644

Applicant(s)

MCLAUGHLIN, PATRICIA

Examiner

Vishu K Mendiratta

Art Unit

3712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4 rejected under 35 U.S.C. 102(b) as being anticipated by Shoptaugh (3731934).

Claim 1: Shoptaugh teaches game pieces (15,17), at least four slats (19,21,23,25) each having at least four apertures (27,29).

Claim 2: playing pieces of different colors (1:40-42).

Claims 3-5: Shoptaugh teaches number of slats and holes could vary to be any desired structure (2:51-55).

Claims 6-11: Shoptaugh teaches game pieces (15,17), at least four slats (19,21,23,25) each having at least four apertures (27,29), playing pieces of different colors (1:40-42). Shoptaugh teaches number of slats and holes could vary to be any desired structure (2:51-55). Shoptaugh teaches players selecting playing pieces (2:18-22), players placing selecting possible moves (2:24-38).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3712

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 3-5,6-13 rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Shoptaugh.

Claims 3-5: Shoptaugh teaches all limitations except that it does not expressly teach number of slats equal to number of apertures and that number being four (claim 3-4) and eight (claim 5).

Shoptaugh teaches number of slats and holes could vary to be any desired structure (2:51-55).

Whereas young players (children) like to play a much simpler game others (grownups) like to play a much more challenging game with more complicated structure. In order to make the game appropriate for players who like to play challenging games, it would have been obvious to provide a structure with higher number of slats and apertures. One of ordinary skill in art at the time the invention was made would have suggested creating game structure with higher numbers of slats and apertures.

Claims 6-11: Shoptaugh teaches all limitations except that it does not teach expressly teach one of the two possible moves. Shoptaugh indicates that the game can vary in specifics of the rules, in that a simpler game can allow both moves or a harder game can allow only one of two moves depending on the agreement by players.

One of ordinary skill in art at the time the invention was made would have suggested selecting one of two moves for making the game appropriated for grownup players.

Art Unit: 3712

Claim 12: In order to make the game appropriate for players who like to play challenging games, it would have been obvious to use requirement of more complicated arrangement of end configurations. One of ordinary skill in art at the time the invention was made would have suggested a diamond or any other shape to be achieved by players.

Claim 13: In order to make the game popular, it would have been obvious to use computer applications of the game.

One of ordinary skill in art at the time the invention was made would have suggested playing the game on computers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishu K Mendiratta whose telephone number is (703) 306-5695. The examiner can normally be reached on Mon-Fri 8AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H Banks can be reached on (703) 308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Application/Control Number: 09/863,644

Art Unit: 3712

Page 5

A handwritten signature in black ink, consisting of a stylized 'V' followed by a series of loops and a long horizontal stroke extending to the right.

Vishu K Mendiratta  
Examiner  
Art Unit 3712

VKM

March 15, 2004